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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THEFLYONTHEWALL.COM, INC.,

Plaintiff,

v.

TRADE THE NEWS, INC.,

Defendant.

Civil Action No. 07 CV 9612 (CM)(GWG)

**DECLARATION
OF JOSEPH PERRONE, JR. IN SUPPORT
OF MOTION TO DISMISS COMPLAINT**

I, JOSEPH PERRONE, JR., hereby declare as follows:

1. I am the President of Trade The News, Inc., Defendant in this action (“TTN” or “Defendant”). I have personal knowledge of the facts set forth herein. I submit this Declaration in Support of Defendant’s motion to dismiss the Complaint of the Plaintiff Theflyonthewall.com, Inc. (“The Fly” or “Plaintiff”), and for such other and further relief as the court may deem proper.

2. TTN was started in 1996, and is in the business of providing real-time financial market-based news and information to paying subscribers. Subscribers are generally Wall Street-style traders, investors and hedge-fund types who desire immediate access to breaking

news upon which they can rely to make lucrative trades. Through an interactive IP-based closed circuit environment, TTN offers a number of services to its subscribers including, (i) a voice module network (known as “hoot”) which is for professional traders who require instantaneous responses to specific financial market inquiries; (ii) its webpage (<http://www.tradethenews.com>) which features an overview of current market events and stories; (iii) a Weekly Market Calendar which highlights important events of the week, including major data releases and a list of all companies reporting each day of the week; (iv) The Morning Report which provides consumers with a quick review of the previous day’s U.S. market analysis and highlights the company reports issued after the close; and (v) its News Station 5 software which enables visitors to download market reports and data.

3. Currently, TTN broadcasts to more than 2,500 clients worldwide including major trading houses and money management institutions, as well as private traders. TTN is widely praised for its global content. Barron’s, one of the world’s leading business publications, has called TTN “a valuable tool for high-end active investors and managers” and Trader’s Magazine UK & Germany has written that “Individual traders and financial institutions . . . will be hard pressed to find anything that can beat this product.”

4. I am familiar with The Fly and its business, have read its Complaint in this action, and consider The Fly to be a TTN competitor. There are a number of other news organizations who compete with TTN and The Fly in this industry, including a company by the name of Briefing.com, that each provide time sensitive financial news and information.

5. My attorneys tell me, and it is my understanding, that for the purposes of TTN’s motion to dismiss the Court is required to accept as true the allegations of the Complaint. There is one particular allegation that I must refute as utterly preposterous, namely paragraph 18, which

states that “TTN built its business on routinely copying The Fly’s newsfeed and posting it, often within seconds of The Fly’s news reports, on its website for the benefit of its paying subscribers.” TTN lists hundreds of informative factual news items and reports in any given week. Indeed, the Complaint itself belies this statement in paragraph 18, because as paragraphs 25 and 27 show, Plaintiff at most only found that TTN “copied” short news snippets comprising publicly available information. For The Fly to state, without any justification, that “TTN built its business on routinely copying The Fly’s newsfeed” is beyond ludicrous.

6. On June 3, 2004, as described in paragraph 19 of the Complaint, I received an e-mail from an attorney claiming to represent The Fly. A copy of this e-mail, from Victoria J. B. Doyle of the law firm Fitzpatrick, Cella, Harper & Scinto, is attached as Exhibit A. In this June, 2004 e-mail, The Fly’s lawyer complained about similar things that they complain about now, that TTN copied The Fly’s news.

7. To me, the arguments in the The Fly’s June 2004 e-mail seemed then just as preposterous as they do now. It was my understanding then, as it is my understanding now, that no one “owns” the news.

8. I did not respond to The Fly’s June 2004 e-mail, and rejected it by continuing to do business as usual. The Fly never followed up, never commenced an action (until now) and failed to take any other action to enforce any of the alleged rights it mentioned in the June 2004 e-mail. Other than a few snide comments and vague threats made to me personally by Ron Entergino, The Fly’s principal, The Fly did nothing since June 2004. I relied on The Fly’s inaction and continued operating just as I had before, and convinced that The Fly would take no action, I have invested substantial sums of money in my business for growth and expansion, including new office space, additional employees, and new customers.

9. My understanding is that since June, 2004 to the present, all that has happened is that Lehman Brothers, Merrill Lynch and Morgan Stanley (the “Securities Firms”) filed suit against The Fly in this District (06 Civ. 4908, Daniels, J.). The Securities Firms have alleged that The Fly engaged in illegal copying of the Firms’ proprietary research reports, often copying verbatim portions from those reports.

10. I understand that The Fly has chosen to copy, practically verbatim, the Securities Firms’ complaint in The Fly’s lawsuit against TTN. A copy of the Securities Firms’ complaint is attached as Exhibit B.

11. As competitors, it is likely that The Fly and TTN obtain their news from similar and sometimes the same sources. Moreover, our competitors very likely obtain their news from the same sources as well. Indeed, I have found examples of exactly that on one of those competitor’s, Briefing.com’s, website. In fact, several of The Fly’s alleged errors in common between The Fly’s news squibs and TTN’s are also found in Briefing.com’s feed.

12. On May 29, 2007, Briefing.com published the same erroneous information as Plaintiff and Defendant, stating that “LTD downgraded to Equal Weight from Overweight at JPMS”. A copy of a Briefing.com “Ticker Search” that I located at their website is attached as Exhibit C. Plaintiff asserts that it made the same reporting error, and that TTN is liable for copying the error from Plaintiff on May 29, 2007 where Plaintiff alleges that TTN “reported in error that JPMS was the firm that downgraded LTD when it was actually MSCO.” Cpt. ¶ 25. More than likely, each of us – TTN, The Fly and Briefing.com – got the erroneous news from the same third party source.

13. Similarly, on September 11, 2007, Briefing.com published the same erroneous information as Plaintiff and Defendant, stating that Lazard Capital **initiated** coverage of Trubion

Pharmaceuticals (TRBN) with a “hold” rating. A copy of a Briefing.com “Ticker Search” that I located at their website is attached as Exhibit D. Plaintiff asserts that it made the same reporting error, and that TTN is liable for copying the error from Plaintiff, on September 11, 2007 where Plaintiff alleges that TTN “reported the story in error. TRBN was actually **downgraded** to hold.” Cpt. ¶ 25. Again, it is more than likely that TTN, The Fly and Briefing.com got the erroneous news from the same third party source.

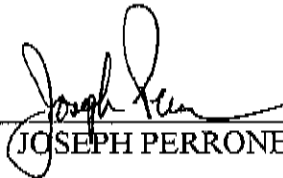
14. Another example is on September 25, 2007, where Briefing.com published a new target price for Hexcel by Wedbush Morgan of **\$25**. A copy of a Briefing.com “Ticker Search” that I located at their website is attached as Exhibit E. Plaintiff asserts that it made the same reporting error, and that TTN is liable for copying the error, on September 25, 2007 where Plaintiff alleges that TTN “reported in error the target of \$25 when the correct target was **\$26**.” Cpt. ¶ 25. Again, it is more than likely that TTN, The Fly and Briefing.com got the erroneous news from the same third party source.

15. In view of the above, the fact that another company in the financial news reporting industry made the same reporting error as Plaintiff and Defendant confirms that competitors in the real-time financial reporting industry obtain their information and misinformation from common sources. Therefore, any mistakes in common between Plaintiff and Defendant do not create an inference of copying, but rather serve to confirm that Plaintiff does not own the factual news information it alleges TTN has copied/misappropriated.

WHEREFORE, your deponent respectfully requests that this Court issue an order granting Defendant's motion to dismiss the Complaint in its entirety, and granting such other and further relief as this court deems proper.

I declare under penalties of perjury that the foregoing is true and correct.

Executed on December 10, 2007



JOSEPH PERRONE, JR.

INDEX OF EXHIBITS

- Exhibit A: Copy of e-mail from Victoria J. B. Doyle of the law firm Fitzpatrick, Cella, Harper & Scinto, dated June 3, 2004
- Exhibit B: Copy of the Securities Firms' complaint
- Exhibit C: Copy of Briefing.com "Ticker Search" regarding Limited
- Exhibit D: Copy of Briefing.com "Ticker Search" regarding Trubion Pharma
- Exhibit E: Copy of Briefing.com "Ticker Search" regarding Hexcel